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May 18, 2023

VIA ECF

Hon. Edgardo Ramos
United States District Court
Southern District of New York
Thurgood Marshall United States Courthouse
40 Foley Square, Courtroom 619
New York, NY 10007

Re: Securities and Exchange Commission v. Justin Sun, et al., Case No. 23-2433

Dear Judge Ramos:

We represent defendants BitTorrent Foundation Ltd., a Singaporean entity ("BitTorrent Foundation") and Rainberry, Inc. ("Rainberry") in the above-referenced matter. In accordance with Your Honor's individual rule of practice 1(E), we submit this letter motion requesting an extension of the deadline by which BitTorrent Foundation and Rainberry would otherwise be required to answer or respond to the complaint. Plaintiff, the Securities and Exchange Commission ("SEC"), has reviewed this letter motion pre-filing and consents to the requested extension.

The SEC filed this action on March 22, 2023. The SEC purports to have served BitTorrent Foundation on May 2, 2023, through an agent for service in Singapore, which, if deemed effective, would make BitTorrent Foundation's deadline for responding to the complaint May 23, 2023. Rainberry executed a waiver of service of summons on April 4, 2023, making Rainberry's deadline for responding to the complaint June 5, 2023. Co-defendant Austin Mahone executed a waiver of service of summons on April 14, 2023, making his deadline for responding to the complaint June 13, 2023.¹

BitTorrent Foundation and Rainberry respectfully request an extension of their deadline for responding to the complaint of 120 days, to September 20, 2023.

¹ The SEC purports to have served an additional co-defendant, DeAndre Cortez Way, on April 19, 2023, which would mean that, if deemed effective, his deadline for responding to the complaint was May 10, 2023. Mr. Way has yet to appear in the action. Two additional named defendants, Tron Foundation Limited ("Tron Foundation") and Justin Sun, have not yet been served.

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There have been no previous requests for adjournment or extension in this case. Nor has a scheduling order issued, as the case was only filed in March.

There are good reasons for this extension. First, an extension will provide the SEC additional time to address service on the remaining defendants, which are domiciled outside the United States. Relatedly, because the complaint alleges overlapping facts and legal theories involving the various defendants, an extension will provide for a uniform schedule for responding to those allegations. This coordination of deadlines will streamline both the case schedule and presentation of legal issues and allow this case to proceed in an organized and efficient manner for the benefit of the Court and the parties alike.

Sincerely,

FENWICK & WEST LLP

/s/Dean S. Kristy
Dean S. Kristy

cc: All Counsel of Record (Via ECF)